

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANDREA VARGAS,

Plaintiff,

V.

EVERGREEN PROFESSIONAL RECOVERIES INC., *et al.*

Defendants.

CASE NO. 2:21-cv-00926-RSL-JRC

ORDER DENYING MOTION FOR
RELIEF FROM DEADLINE

This matter is before the Court on defendant Evergreen Professional Recoveries, Inc.'s

(“Evergreen”) motion for relief from the deadline for completion of discovery. Dkt. 45.

As it stands, the discovery completion deadline was May 30, 2022. Dkt. 18. The Court has denied a summary judgment motion filed by defendant Kaiser Foundation Health Plan of Washington (“Kaiser”) (Dkt. 24), and the Court has directed the parties to file cross-summary judgment briefing that will be ripe for consideration on September 9, 2022. Dkt. 48.

Evergreen seeks permission to conduct a Fed. R. Civ. P. 30(b)(6) deposition of co-defendant Kaiser after the discovery cutoff. Dkt. 45, at 1. Evergreen's attorney states that he

1 sought to depose Kaiser beginning in April 2022 but “lost track of” his request to Kaiser’s
 2 attorney and was unable to schedule a deposition before the discovery cutoff. Dkt. 45-1, at 2.

3 Plaintiff, but not defendant Kaiser, opposes the motion. Dkt. 46, at 2. Plaintiff points out
 4 that the motion for relief from deadline is late (Dkt. 46, at 3) and that Evergreen had six weeks
 5 after first seeking a deposition of Kaiser until the discovery deadline yet failed to timely act.
 6 Dkt. 46, at 4. Plaintiff has already deposed Kaiser. *See* Dkt. 46, at 2.

7 The Court observes that it has previously granted relief from scheduling order deadlines
 8 in this matter based on Evergreen’s counsel’s need for medical leave and the other parties’ lack
 9 of opposition to the request. *See* Dkt. 18. The Court has also denied a request by Evergreen to
 10 amend the scheduling order and file an amended answer. *See* Dkt. 36.

11 As the Court has previously warned Evergreen, in the context of whether there is good
 12 cause for relief from a scheduling order deadline, “carelessness is not compatible with a finding
 13 of diligence and offers no reason for a grant of relief.” *Johnson v. Mammoth Recreations, Inc.*,
 14 975 F.2d 604, 609 (9th Cir. 1992). The inquiry into good cause “primarily considers the
 15 diligence of the party seeking the amendment.” *Id.*

16 Evergreen’s attorney cites health concerns through April 2022, but, as the reason for
 17 noncompliance with the May 30, 2022, discovery cutoff, gives only “personal distractions” and
 18 Kaiser’s attorney’s schedule as justification. *See* Dkt. 45-1, at 2. Evergreen’s attorney also
 19 untimely filed the pending motion, as Evergreen not only filed the motion on the discovery
 20 cutoff, but the motion would not be ripe for the Court’s review until after the date that Kaiser
 21 agreed to (June 2, 2022) and part way through the proposed deposition period that Evergreen
 22 gives (June 2 to June 17, 2022). However, motions for relief from a deadline must be filed

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sufficiently in advance of the deadline to allow the Court to rule on the motion prior to the deadline. *See Local Civil Rule (“LCR”) 7(j).*

For these reasons, the motion for relief from deadline (Dkt. 45) is denied.

Dated this 30th day of June, 2022.

J. K. Ward (matina)

J. Richard Creature
Chief United States Magistrate Judge